

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION

SHERMAN MACK,)
)
Plaintiff) 1:21-CV-00004-RAL
)
vs.) RICHARD A. LANZILLO
) Chief United States Magistrate Judge
SUPERINTENDENT CLARK,)
SUPERINTENDENT AT SCI ALBION;) ORDER TO FILE BRIEF TO ACCOMPANY
DEPUTY ADAMS, DEPUTY AT SCI) MOTION FOR DEFAULT JUDGMENT
ALBION; DEPUTY ENNIS, DEPUTY AT)
SCI ALBION; JOHN DOE 1, PRC BOARD)
MEMBER AT SCI ALBION; JOHN DOE 2,) IN RE: ECF NO. 79
PRC BOARD MEMBER AT SCI ALBION;)
JOHN DOE 3, PRC BOARD MEMBER AT)
SCI ALBION; JOHN DOE 4, PRC BOARD)
MEMBER AT SCI ALBION; SECRETARY)
JOHN WETZEL, LT. SISSEM, CAPTAIN)
FLOYD, SGT. KEMP, MAJOR GILL,)
)
Defendants)
)

ORDER

Pending before the Court is Plaintiff's motion for default judgment against all identified Defendants. ECF No. 79. The motion requests default judgment because Defendants have failed to comply with this Court's order setting the responsive pleading deadline for December 19, 2022. *See id.*; ECF No. 73.¹ But Plaintiff has not filed a supportive brief pursuant to the Local Rules of this Court and the undersigned's practices and procedures.

¹ As of today's date, Defendants have yet to answer or otherwise respond to Plaintiff's second amended complaint.

Local Rule of the Court 7(A) stipulates that motions pending in this Court must comply with, *inter alia*, the assigned Judge's practices and procedures. LCvR 7(A). The undersigned's practices and procedures require supportive briefs to be contemporaneously filed with motions unless the motion relates to discovery matters. *See General Practice and Procedures United States Magistrate Judge Richard A. Lanzillo United States District Court for the Western District of Pennsylvania Erie Division*, at II.A, available at

https://www.pawd.uscourts.gov/sites/pawd/files/Lanzillo_General_Practice_Procedures_22.pdf.

Accordingly, Plaintiff is ordered to file a brief in support of the motion for default judgment on or before **February 3, 2023**. This brief should address the three factors that "control whether a default judgment should be granted: (1) prejudice to the plaintiff if default is denied, (2) whether the defendant appears to have a litigable defense, and (3) whether defendant's delay is due to culpable conduct." *Masciantonio v. United States*, 2022 WL 6702102, at *2 (3d Cir. Oct. 11, 2022) (per curiam) (quoting *Chamberlain v. Giampapa*, 210 F.3d 154, 164 (3d Cir. 2000) (citing *United States v. \$55,518.05 in U.S. Currency*, 728 F.2d 192, 195 (3d Cir. 1984))). Failure to timely file this supportive brief will result in dismissal of the motion for default judgment without prejudice.

DATED this 20th day of January, 2023.

BY THE COURT:



RICHARD A. LANZILLO

CHIEF UNITED STATES MAGISTRATE JUDGE